

**Title 27**  
**Critical Area Commission for the Chesapeake and Atlantic**  
**Coastal Bays**  
**Subtitle 01**

**Chapter 01 General Provisions**

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (24) (text unchanged)

*(24-1) "Financial assurance" means a performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to a local jurisdiction.*

(25) — (79) (text unchanged)

**Chapter 02 Development in the Critical Area**

**.05 Resource Conservation Areas.**

A.—B. (text unchanged)

C. In developing their Critical Area programs, local jurisdictions shall use all of the following criteria for resource conservation areas:

(1) — (7) (text unchanged)

*(8) A commercial, institutional, or industrial solar energy generating system may be permitted in accordance with COMAR 27.01.14.*

~~[(8)—(10)]~~ (9 )— (11) (text unchanged)

D. (text unchanged)

## **Chapter 09 Habitat Protection Areas in the Critical Area**

### **.01 Buffer.**

A. (text unchanged)

B. Terms Defined.

(1) — (5) (text unchanged)

[(6) "Financial assurance" means a performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to a local jurisdiction.]

(6-1) — (20) (text unchanged)

C. — E. (text unchanged)

## **Chapter 14 Solar Energy Generating Systems**

Authority: Natural Resources Article, §8-1806 (b), Annotated Code of Maryland

### **.01 Definitions.**

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *"Energy generating system" has the meaning stated in the Land Use Article, §4-211, Annotated Code of Maryland.*

(2) *Major solar energy generating system.*

(a) *"Major solar energy generating system" means an energy generating system that derives energy from the sun to produce more than two megawatts of electricity.*

(b) *"Major solar energy generating system" includes multiple minor solar energy generating systems that are located on the same parcel that collectively produce more than two megawatts of electricity.*

1       (3) *Minor solar energy generating system.*

2           (a) *“Minor solar energy generating system” means an energy generating system that derives*  
3 *energy from the sun to produce two megawatts or less of electricity.*

4           (b) *“Minor solar energy generating system” does not include a small residential accessory*  
5 *solar energy generating system.*

6           (4) *“Planting plan” means a narrative, graphic description, or plan of an area when planting*  
7 *is required for afforestation, mitigation, or under solar panels.*

8       (5) *Project area.*

9           (a) *“Project area” means the total area within the limits of disturbance inside the Critical*  
10 *Area of a solar energy generating system.*

11          (b) *“Project area” includes:*

12           (i) *A parcel or portions of parcels within the limits of disturbance inside the Critical Area*  
13 *whether or not those parcels are contiguous;*

14           (ii) *The components of a solar energy generating system listed in §B (9) (b) (i) of this*  
15 *regulation; and*

16           (iii) *Any required roads and fencing.*

17       (6) *“Reservation of development rights” means withholding a certain number of development*  
18 *rights that are attributable to a lot or parcel that prevents them from being used for development*  
19 *for a specified period of time.*

20       (7) *“Reservation of Development Rights Agreement” means a legal instrument recorded*  
21 *among the land records and approved by the local jurisdiction, restricting land development*  
22 *within a defined area and for a specified period of time.*

23       (8) *Small residential accessory solar energy generating system.*

1       (a) *“Small residential accessory solar energy generating system” means an energy*  
2 *generating system that derives energy from the sun to produce electricity to support the principal*  
3 *use on a residential property on the same lot or parcel as the principal use.*

4       (b) *“Small residential accessory solar energy generating system” includes an energy*  
5 *generating system that delivers electricity to a power grid and complies with the laws of the State*  
6 *of Maryland.*

7       (9) *Solar energy generating system.*

8       (a) *“Solar energy generating system” means an energy generating system that derives*  
9 *energy from the sun to produce electricity.*

10       (b) *“Solar energy generating system” includes:*

11       (i) *A land use that uses solar collectors, panels, controls, energy storage devices, heat*  
12 *pumps, heat exchangers, and other materials, hardware or equipment to produce electricity; and*

13       (ii) *Any term used by a local jurisdiction for a solar application that proposes to*  
14 *construct a solar energy generating system such as a solar energy system utility scale, solar*  
15 *energy system utility scale on farms, utility scale solar array, solar power plant, solar energy*  
16 *system large-scale, solar energy system medium scale, solar array, power generating facilities,*  
17 *solar facilities, solar energy system grid connected, solar energy generating facility commercial.*

18       (c) *“Solar energy generating system” does not include an energy storage device or facility*  
19 *where the device or facility operates independently, is separate from, and whose primary*  
20 *purpose does not include supporting the solar energy generating system in the Critical Area.*

21       (10) *“Wetland migration area” means an area that will likely be suitable for future wetland*  
22 *establishment in response to a change in sea level.*

1 ***.02 Authority of the Public Service Commission; Applicability.***

2 *A. The provisions of this chapter may not be construed to limit the authority of the Public*  
3 *Service Commission under Public Utilities Article, §7-207, Annotated Code of Maryland.*

4 *B. The requirements of this chapter are applicable to major, minor, and small residential*  
5 *accessory solar energy generating systems.*

6  
7 ***.03 General Provisions.***

8 *A. On or after DATE TBD a local jurisdiction may authorize:*

9 *(1) A major or minor solar energy generating system in the Critical Area in accordance with*  
10 *Regulation .04 of this chapter;*

11 *(2) A major solar energy generating system in the resource conservation area without*  
12 *growth allocation in accordance with Regulations .05 of this chapter;*

13 *(3) Provided mitigation is required at a 1:1 ratio, a small residential accessory solar energy*  
14 *generating system in the buffer or a modified buffer area if there is not an alternative location*  
15 *outside the buffer.*

16 *B. On or after DATE TBD a local jurisdiction shall:*

17 *(1) Notwithstanding existing local standards and procedures, apply the provisions of this*  
18 *chapter; or*

19 *(2) Except for the growth allocation provision in §D of this Regulation and the lot coverage*  
20 *provision in Regulation .04 B of this chapter, apply alternative standards and procedures if the*  
21 *local jurisdiction submits those standards to the Commission and they are approved as part of a*  
22 *local Critical Area program.*

1     *C. A local jurisdiction may authorize a major and minor solar energy generating system in a*  
2     *modified buffer area in accordance with a local Critical Area program provided the project is*  
3     *located over existing legally-developed lot coverage as described in Natural Resources Article,*  
4     *§8-1808.3, Annotated Code of Maryland.*

5     *D. In addition to meeting the requirements of this chapter, a local jurisdiction may not*  
6     *authorize a growth allocation to accommodate a major or a minor solar energy generating*  
7     *system in the limited development area or the resource conservation area.*

8     *E. Except for a regulated activity that is authorized by the Maryland Department of the*  
9     *Environment in accordance with COMAR 26.23.02, a local jurisdiction may not authorize a*  
10    *major or minor solar energy generating system:*

11       *(1) In a habitat protection area designated under COMAR 27.01.09; or*

12       *(2) On a steep slope or a highly erodible soil.*

13    *F. Unless authorized under an approved Critical Area program in accordance with §B (2) of*  
14    *this regulation, a local jurisdiction may not authorize a variance, modification, waiver, or other*  
15    *local procedure or approval that alters the requirements of this Chapter.*

16    *G. For a major solar energy generating system, a local jurisdiction shall require a site plan*  
17    *that includes the information listed on the Solar Energy Generating Facility Site Plan Checklist*  
18    *provided by the Commission to ensure compliance with the requirements of this chapter.*

19    *H. A local jurisdiction may require a site plan for a minor solar energy generating system.*  
20

21    ***.04 Criteria for a Solar Energy Generating System.***

22    *A. Except for a small residential accessory solar energy generating system as provided in*  
23    *Regulation .03 of this chapter, the provisions of this regulation are applicable to a major and*

1 *minor solar energy generating system in an intensely developed area, a limited development*  
2 *area, and a resource conservation area.*

3 *B. A local jurisdiction shall not count the area of a solar panel as lot coverage and:*

4 *(1) For a minor solar energy generating system the solar panel is:*

5 *(a) Located over existing, legally-developed lot coverage as described in Natural*  
6 *Resources Article, §8-1808.3, Annotated Code of Maryland; or*

7 *(b) Elevated above the ground and the area under the solar panel is maintained as an area*  
8 *of existing grass, established grass, or other natural vegetation;*

9 *(2) For a major solar energy generating system the solar panel is:*

10 *(a) Located over existing, legally-developed lot coverage as described in Natural*  
11 *Resources Article, §8-1808.3, Annotated Code of Maryland; or*

12 *(b) Elevated above the ground and the area under the solar panel is maintained in*  
13 *accordance with the planting plan requirements of Regulation .06 of this chapter as:*

14 *(i) Pollinator habitat;*

15 *(ii) Native vegetation other than pollinator habitat; or*

16 *(iii) An agricultural use.*

17 *C. A local jurisdiction shall require the following minimum standards for the buffer as*  
18 *defined in COMAR 27.01.01.01:*

19 *(1) Measure and delineate the buffer in accordance with COMAR 27.01.09.01E (3)—(7); and*

20 *(2) Unless there is no feasible alternative, authorize one point of access through the buffer to*  
21 *the project area, or where a project includes noncontiguous parcels, minimize the number of*  
22 *access points through the buffer if:*

23 *(a) The disturbance inside the buffer is replanted at a 2.5:1 ratio; and*

1       (b) A buffer management plan is required in accordance with COMAR 27.01.09.01-3.

2       D. Except when a project area is in an intensely developed area, a local jurisdiction shall  
3       require the following minimum standards:

4       (1) In a limited development area, limit clearing of forest and developed woodlands to 10  
5       acres or 20 percent of the entirety of the project area, whichever is greater;

6       (2) In a resource conservation area, limit clearing of forest to 10 acres of the entirety of the  
7       project area; and

8       (3) Require replacement of cleared forest and developed woodlands on an equal area basis.

9       E. For a major solar energy generating system, require afforestation in accordance with the  
10      following maximums:

11      (1) 15 percent of the total project area in a limited development area; and

12      (2) 20 percent of the total project area in a resource conservation area.

13      F. Require a planting plan for mitigation and afforestation in accordance with Regulation .06  
14      of this chapter.

15      G. A local jurisdiction shall require stormwater management in accordance with Environment  
16      Article, §§4-201—4-215, Annotated Code of Maryland, and COMAR 26.17.02.

17      H. Except for a small residential accessory solar energy generating system, a local jurisdiction  
18      shall require a decommissioning plan if one is not otherwise required as a result of obtaining a  
19      Certificate of Public Convenience and Necessity from the Public Service Commission.

20  
21      **.05 Criteria for a Major Solar Energy Generating System in the Resource Conservation Area.**



1        *In addition to the requirements under Regulation .04 of this chapter, a local jurisdiction*  
2        *shall use the following standards when authorizing a major solar energy generating system in the*  
3        *resource conservation area:*

4        *A. Except for access allowed in accordance with Regulation .04 C of this chapter and in*  
5        *accordance with the provisions in COMAR 27.01.06, restrict forest clearing within 300 feet*  
6        *beyond the landward boundary of tidal waters or tidal wetlands, or the edge of each bank of a*  
7        *tributary stream; and*

8        *B. In addition to any applicable local land recordation requirements, record a Reservation*  
9        *of Development Rights Agreement in accordance with §§C and D of this regulation.*

10       *C. The number of development rights reserved is equal to the permitted density associated*  
11       *with the project area of each parcel as calculated under Natural Resources Article, §8-*  
12       *1808.1(e), Annotated Code of Maryland and COMAR 27.01.02.05 C(4).*

13       *D. The Reservation of Development Rights Agreement shall remain in effect until:*

14       *(1) The decommissioning plan, as required in Regulation .04 of this chapter, has been*  
15       *implemented and completed; and*

16       *(2) A local government confirms the implementation of the decommissioning plan is*  
17       *complete and the termination of the Reservation of Development Rights Agreement is reflected in*  
18       *the land records.*

19       *E. The remaining land unencumbered by the solar energy generating system or lands not*  
20       *otherwise restricted by the Reservation of Development Rights Agreement may be developed in*  
21       *accordance with Natural Resources Article, §8-1808.1, Annotated Code of Maryland and*  
22       *COMAR 27.01.02.05 C(4);*

1        *F. A lot, parcel, or a portion of a lot or parcel are not eligible for a major solar energy*  
2 *generating system if the development rights associated with that lot, parcel, or portion of a lot or*  
3 *parcel have been:*

4        *(1) Utilized for an intrafamily transfer;*

5        *(2) Transferred through a transfer of development right program;*

6        *(3) Preserved or conserved through an easement; or*

7        *(4) Reserved or otherwise associated with the area of land to be utilized for the solar energy*  
8 *generating system.*

9        *G. A local jurisdiction may propose alternatives to a Reservation of Development Rights*  
10 *Agreement in the resource conservation area if the local jurisdiction submits those standards to*  
11 *the Commission and they are approved as part of a local Critical Area program and may*  
12 *include:*

13        *(1) A transfer of development rights program; or*

14        *(2) A permanent restriction of development rights of other lands that proffer water quality*  
15 *and habitat benefits such as wetland migration areas.*

16  
17 **.06 Planting Plan Requirements.**

18        *A. Depending on the individual site constraints, a local jurisdiction shall select from the*  
19 *following options to address the requirements for a planting plan in Regulation .04 of this*  
20 *chapter:*

21        *(1) Plant onsite in one of the following planting areas:*

22        *(a) The area within 300 feet beyond the landward boundary of tidal waters or tidal wetlands,*  
23 *or the edge of each bank of a tributary stream;*

1       (b) Contiguous to or within a designated forest interior dwelling bird habitat; or

2       (c) A wildlife corridor; or

3       (2) If a local jurisdiction has in a place an agreement with the Commission:

4           (a) Plant offsite in accordance with the options specified in §A1 (i)—(iii) of this  
5 regulation;

6           (b) Create a wetland migration area, non-structural shoreline erosion control project, or  
7 other nature-based practice that naturally adjusts to changing environmental conditions  
8 through the lifespan of the practice and is designed to address future sea level rise,  
9 precipitation-induced flooding, or other climate change impacts;

10          (c) Create, restore, or enhance a nontidal wetland provided it is authorized by the  
11 Maryland Department of the Environment and results in habitat and water quality benefits; or

12          (d) Collect a fee in lieu in accordance with Regulation .07 of this chapter.

13       B. A local jurisdiction shall ensure that any general landscape screening requirements are not  
14 included as part of the mitigation or afforestation planting required in Regulation .04 of this  
15 chapter.

16       C. A local jurisdiction shall require a planting plan for:

17           (1) The area under the solar panels;

18           (2) Reforestation; or

19           (3) Afforestation.

20       D. A local jurisdiction shall ensure long term maintenance of the plantings through financial  
21 assurance measures.

1 *E. A local jurisdiction shall require that all planting is in accordance with local reforestation*  
2 *and afforestation plan requirements including protecting all planted areas through conservation*  
3 *easements, restrictive covenants, or other protective instruments.*

4 **.07 Fee In Lieu.**

5 *A local jurisdiction shall:*

6 *A. Collect at least \$1.50 per square foot of mitigation or afforestation as required in*  
7 *Regulation .06 of this chapter.*

8 *B. Ensure the fee is adequate to cover the cost associated with administration, acquisition,*  
9 *planting, monitoring, and maintenance for the required mitigation or required afforestation.*

10 *C. Establish a separate account independent of other Critical Area funds, which may not*  
11 *revert to a local jurisdiction's general fund, for the collection of the fee in lieu.*

12 *D. Prohibit the use of the fees to meet other landscaping requirements.*

13 *E. Use the fees to accomplish one or more the options provided in Regulation .06 A (1) (i)—*  
14 *(iv)*

15 .

16 **8/20/20**

17  
18 **Subtitle 02 DEVELOPMENT IN THE CRITICAL AREA RESULTING**  
19 **FROM STATE AND LOCAL AGENCY PROGRAMS**  
20

21 **Chapter 01 General Provisions**

22 Authority: Natural Resources Article, §§8-1806, 8-1808.4(a), and 8-1814, Annotated Code of Maryland

23 **.01 Definitions.**

24 *A. In this subtitle, the following terms have the meanings indicated.*

25 *B. Terms Defined.*

26 *(1) — (17) (text unchanged)*

(17-1) “Energy generating system” has the meaning stated in Land Use Article, §4-211, Annotated Code of Maryland.

(18) — (50) (text unchanged)

(50-1) “Solar energy generating system” has the meaning stated in COMAR 27.01.01.01.

(52) (text unchanged)

(53) State and Local Agency Actions.

(a) "State and local agency actions" means [the following:

(i) Any] any direct action, including an action undertaken by a private sponsor on behalf of a State or local agency, such as construction, that causes development to occur[;].

[(ii)] (b) “State and local agency actions” includes:

(i) The issuance of a Certificate of Public Convenience and Necessity by the Maryland Public Service Commission [which allows the construction of a power plant] that results in development in the Critical Area;

(iii) (text unchanged)

(b) (text unchanged)

(54) — (64) (text unchanged)

## **Chapter 04 State or Local Agency Actions Resulting in Major Development on Private Lands or Lands Owned by Local Jurisdictions**

Authority: Natural Resources Article, §8-1814, Annotated Code of Maryland

### **.01 Definition.**

"Major development" means development of a scale that may cause State-wide, regional, or inter-jurisdictional, environmental or economic effects in the Critical Area, or which may cause

substantial impacts on the Critical Area program of a local jurisdiction. This development includes [, but is not limited to,] airports, power plants, *major solar energy generating systems*, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities, *and any development or project authorized by the Public Service Commission under a Certificate of Public Convenience and Necessity.*

**.02 Criteria.**

A. New major development which is caused by State or local agency actions shall, to the extent practical, be located outside the Critical Area.

B. If the siting of [this] *a major* development [in] *within* the Critical Area is unavoidable because of water dependency or other locational requirements that cannot be satisfied outside the Critical Area, the State or local agency responsible for the development, or the agency proposing a capital project, [or the private sponsor,] shall seek approval for the development from the Commission.

C. In seeking approval, the agency [or the private sponsor] shall submit the following information to the Commission:

(1) Findings, supported by adequate documentation, showing the extent to which the [project or] development is consistent with the provisions and requirements of the Critical Area program of the local jurisdiction within which it is located; and

(2) An evaluation of the effects of the [project] *development* on the Critical Area program of the local jurisdiction, or jurisdictions, within which it is located, including any effects on the jurisdiction's growth allocation as described in COMAR 27.01.02.06.

D. — F. (text unchanged)

1     *G. When the Public Service Commission is reviewing an application for a Certificate of Public*  
2     *Convenience and Necessity for development in the Critical Area the Commission shall:*

3         *(1) Review the Critical Area impacts to ensure the development meets the requirements of*  
4     *COMAR 27.01 and COMAR 27.02; and*

5         *(2) Provide comments on the Critical Area impacts to the Power Plant Research Program*  
6     *and request the comments be incorporated as recommended conditions to the Public Service*  
7     *Commission.*

8     *H. A major solar energy generating system proposed by a private developer in the resource*  
9     *conservation area requires a Reservation of Development Rights agreement in accordance with*  
10    *COMAR 27.01.14.05.*

11    *I. A major solar energy generating system proposed by a local agency on locally-owned lands*  
12    *in the resource conservation area does not require reservation of development rights or*  
13    *recordation of a Reservation of Development Rights Agreement in accordance with COMAR*  
14    *27.01.14.05.*

## 16    **Chapter 05 State Agency Actions Resulting in Development on State-Owned Land**

17                     Authority: Natural Resources Article, §§8-1806 and 8-1814, Annotated Code of Maryland

### 18    **.02 Commission Review.**

19    A. If the action of a State agency will result in development in the Critical Area, the agency, as  
20    soon as practicable in the planning process, shall consult with the Commission regarding an  
21    assessment of:

22         (1) The requirements under Regulations .03—[.14] .15 of this chapter and the likely effects  
23    of these requirements on a development project, including the fee simple acquisition or disposal  
24    of land in the Critical Area; and

(2) (text unchanged)

B. —C. (text unchanged)

D. In its development proposal under §C of this regulation, an agency shall submit, at a minimum:

(1) (text unchanged)

(2) Findings that the *development* project complies with all requirements under Regulations .03—[.14] .15 of this chapter, *as applicable*;

(3) — (4) (text unchanged)

### **.03-3 Development in a Resource Conservation Area.**

A. — D. (text unchanged)

*E. A State agency may locate any commercial, institutional, or industrial solar energy generating system in a resource conservation area in accordance with COMAR 27.02.05.15.*

### **.15 Solar Energy Generating Systems.**

#### **A. Definitions.**

(1) *In this chapter, the following words have the meanings indicated.*

(2) *Terms Defined.*

(a) *“Major solar energy generating system” has the meaning stated in COMAR 27.01.14.01.*

(b) *“Minor solar energy generating system” has the meaning stated in COMAR 27.01.14.01.*



1       (c) “Planting plan” has the meaning stated in COMAR 27.01.14.01.

2       (d) “Project area” has the meaning stated in COMAR 27.01.14.01.

3       (e) “Solar energy generating system” has the meaning stated in COMAR 27.01.14.01.

4       (f) “Wetland migration area” has the meaning stated in COMAR 27.01.14.01.

5  
6       ***B. Authority of the Public Service Commission; Applicability.***

7       (1) The provisions of this regulation may not be construed to limit the authority of the Public  
8       Service Commission under Public Utilities Article, §7-207, Annotated Code of Maryland.

9       (2) The requirements of this regulation are applicable to major and minor solar energy  
10      generating systems.

11  
12      ***C. General Provisions.***

13      A. A State agency may locate a solar energy generating system constructed or established in  
14      the Critical Area in accordance with Regulation .15-1 of this chapter.

15      B. A State agency may locate a major solar energy generating system in the Resource  
16      Conservation Area in accordance with Regulation .15-2 of this chapter.

17      C. A State agency may locate a solar energy generating system in a modified buffer area  
18      provided the project is located over existing, legally-developed lot coverage as described in  
19      Natural Resources Article, §8-1808.3, Annotated Code of Maryland.

20      D. Except for a regulated activity that is authorized by the Maryland Department of the  
21      Environment in accordance with COMAR 26.23.02, a State agency may not locate a solar  
22      energy generating system:

23      (1) In a habitat protection area designated under COMAR 27.01.09; or

(2) *On a steep slope or a highly erodible soil.*

***.15-1 General Criteria for a Solar Energy Generating System.***

*A. The provisions of this section are applicable to a solar energy generating system in an intensely developed area, a limited development area, and a resource conservation area.*

*B. The area of a solar panel shall not count as lot coverage if:*

*(1) For a minor solar energy generating system, the solar panel is:*

*(a) Located over existing, legally-developed lot coverage as described in Natural Resources Article, §8-1808.3, Annotated Code of Maryland; or*

*(b) Elevated above the ground and the area under the solar panel is maintained as an area of existing grass, established grass, or other natural vegetation;*

*(2) For a major solar energy generating system the solar panel is:*

*(a) Located over existing, legally-developed lot coverage as described in Natural Resources Article, §8-1808.3, Annotated Code of Maryland; or*

*(b) Elevated above the ground and the area under the panel is maintained in accordance with the planting plan requirements of Regulation .15-3 of this chapter as:*

*(i) Pollinator habitat;*

*(ii) Native vegetation other than pollinator habitat; or*

*(iii) An agricultural use.*

*C. In accordance with COMAR 27.02.01.01, a State agency shall:*

*(1) Measure and delineate the buffer in accordance with COMAR 27.01.09.01E (3)—(7);*

*and*

1       (2) Unless there is no feasible alternative, authorize one point of access through the buffer to  
2       the project area, or where a solar energy generating system includes noncontiguous parcels,  
3       minimize the number of access points through the buffer if:

4           (a) The disturbance inside the buffer is replanted at a 2.5:1 ratio; and

5           (b) A buffer management plan is submitted in accordance with COMAR 27.01.09.01-3.

6       D. Except when a project area is in an intensely developed area, a State agency shall:

7           (1) In a limited development area, limit clearing of forest and developed woodlands to 10  
8       acres or 20 percent of the entirety of the project area, whichever is greater;

9           (2) In a resource conservation area, limit clearing of forest to 10 acres of the entirety of the  
10      project area; and

11          (3) Require replacement of cleared forest and developed woodlands on an equal area basis.

12      E. For a major solar energy generating system, a State agency shall provide afforestation in  
13      accordance with the following maximums:

14          (1) 15 percent of the total project area in a limited development area;

15          (2) 20 percent of the total project area in a resource conservation area.

16      F. A State agency shall submit a planting plan for mitigation and afforestation in accordance  
17      with Regulation .15-3 of this chapter.

18      G. A State agency shall provide stormwater management in accordance with Environment  
19      Article, §§4-201—4-215, Annotated Code of Maryland, and COMAR 26.17.02.

20      H. A State agency shall provide a decommissioning plan if one is not otherwise required as a  
21      result of obtaining a Certificate of Public Convenience and Necessity from the Public Service  
22      Commission.

1        *I. A State agency shall submit a site plan that includes the information listed on the Solar*  
2        *Energy Generating Facility Site Plan Checklist provided by the Commission to ensure*  
3        *compliance with the requirements of this regulation.*

4  
5        ***.15-2 Criteria for a Major Solar Energy Generating System in the Resource Conservation***  
6        ***Area.***

7        *In addition to the requirements of Regulation .15-1 of this chapter, a State agency may*  
8        *locate a solar energy generating system in the resource conservation area if a State agency:*

9        *A. Except for access allowed in accordance with Regulation .15-1 C(2) and in accordance with*  
10       *the provisions of Regulation .07 of this chapter, restricts forest clearing within 300 feet beyond*  
11       *the landward boundary of tidal waters or tidal wetlands, or the edge of each bank of a tributary*  
12       *stream; and*

13       *B. Provides an assessment to demonstrate compliance with the climate resilient applications in*  
14       *COMAR 27.02.05.03 B (9), C and D.*

15  
16       ***.15-3 Planting Plan Requirements.***

17       *A. Depending on the individual site constraints, a State agency shall select from the following*  
18       *options to address the planting plan requirements of Regulation .15-1 D and E:*

19       *(1) Plant onsite in one of the following planting areas:*

20       *(a) The area within 300 feet beyond the landward boundary of tidal waters or tidal*  
21       *wetlands, or the edge of each bank of a tributary stream;*

22       *(b) Contiguous to or within a designated forest interior dwelling bird habitat;*

23       *(c) A wildlife corridor; or*

1       (2) *If approved by the Commission:*

2           (a) *Plant offsite and the planting options are in accordance with §A (1)(a)—(c) of this*  
3 *regulation;*

4           (b) *Create a wetland migration area, non-structural shoreline erosion control project, or*  
5 *other nature-based practice that naturally adjusts to changing environmental conditions through*  
6 *the lifespan of the practice and is designed to address future sea level rise, precipitation-induced*  
7 *flooding, or other climate change impacts; or*

8           (c) *Create, restore, or enhance a nontidal wetland provided it is authorized by the*  
9 *Maryland Department of the Environment that results in providing habitat and water quality*  
10 *benefits.*

11       B. *A State agency shall ensure that any general landscape screening requirements are not*  
12 *included as part of the mitigation or afforestation planting required in Regulation .15-1 of this*  
13 *chapter.*

## 15       **Chapter 07 Commission Review, Decision Process, and Time Frames**

16                       **Authority: Natural Resources Article, §8-1814, Annotated Code of Maryland**

### 17       **.02 Review Procedures.**

18       A. For the purpose of reviewing the development proposals listed in Regulation .01, [above,]  
19 the Commission may establish panels, pursuant to Regulation .03, [below,] or it may undertake  
20 [these] reviews by the full Commission.

21       B. — D. (text unchanged)

22       E. [For purposes of reviewing applications for power plants in the Critical Area, the  
23 Commission shall hold joint hearings, as appropriate, with the Public Service Commission. The  
24 Critical Area Commission may establish a panel for this purpose as provided for in Regulation

.03, below.] *For purposes of reviewing an application for a Certificate of Public Convenience and Necessity in the Critical Area the following apply:*

*(1) In accordance with Public Utilities Article §3-106, Annotated Code of Maryland, the Chairman may request to become a party in a proceeding before the Public Service Commission and shall provide notice to the Commission; and*

*(2) The Chairman shall review an application in accordance with COMAR 27.02.04.02 G.*

*F. The Chairman may refer an application to the Commission for review, including:*

*(1) A Certificate of Public Convenience and Necessity; and*

*(2) A State minor solar energy generating system in the Critical Area.*

*G. The Chairman shall refer to the Commission an application for a State or local major solar energy generating system in the Critical Area in the Resource Conservation Area.*

## **Chapter 08 Appeals**

**Authority: Natural Resources Article, §8-1814, Annotated Code of Maryland**

### **.02 Appeals from Commission Disapproval of Proposed Development.**

A. Pursuant to COMAR 27.02.03.01A, 27.02.04.02E, and 27.02.05.02D, a State or local agency [or private sponsor] whose proposal for development has been disapproved by the Commission may appeal the disapproval to the full Commission for reconsideration, within 30 days of receipt of the Commission's decision.

B. — C. (text unchanged)